

Constitution of 1801

Translated: for marxists.org by Mitch Abidor.

On February 4, 1801, the seventh anniversary of the abolition of slavery by the National Assembly, Toussaint Louverture convoked a Constitutional Assembly to write a constitution for Saint-Domingue, though it was still a colony of France. In March representatives from all of Saint-Domingue's departments were elected to the Assembly, which completed the constitution in May. Toussaint signed it in July 1801.

The Assembly was made up of three mulattoes and seven whites, and the constitution they produced was a pure distillation of Toussaint's thought. Following up on Toussaint's opposition to voodoo, Catholicism was made the official religion; the freed slaves were tied to their workplaces; and Toussaint was named ruler for life. Curiously, this last element had been recommended to Toussaint by the most conservative of American revolutionary figures, Alexander Hamilton.

First Title **On the territory**

Art 1 — The entire extent of Saint-Domingue, and Samana, Tortuga, Gonave, the Cayemites, Ile-a-Vache, the Saone and other adjacent islands, form the territory of one colony, that is part of the French Empire, but is subject to particular laws.

Art 2 — The territory of this colony is divided into departments, *arrondissements*, and parishes

Title II **On its inhabitants**

Art 3 — There can be no slaves on this territory; servitude has been forever abolished. All men are born, live and die there free and French.

Art 4 — All men can work at all forms of employment, whatever their color.

Art 5 — No other distinctions exist than those of virtues and talents, nor any other superiority than that granted by the law in the exercise of a public charge. The law is the same for all, whether it punishes or protects.

Title III **On religion**

Art 6 — The Catholic religion, Apostolic and Roman, is the only one publicly professed.

Art 7 — Every parish provides for the maintenance of the religious cult and its ministers. Manufactured goods are especially destined for this expense and for presbyteries and the lodging of ministers.

Art 8 — The governor of the colony assigns to each minister of the religion the scope of his spiritual administration, and these ministers can never, under any pretext, form a body within the colony

Title IV **On morals**

Art 9 — Since marriage, by its civil and religious institution, tends to the purity of morals, those spouses who practice the virtues demanded by their state, will always be distinguished and specially protected by the government

Art 10 — Divorce will not take place in the colony

Art 11 — The state of the rights of children born through marriage will be fixed by laws that will tend to spread and maintain social virtues, and to encourage and solidify family ties.

Title V

On men in society

Art 12 — The Constitution guarantees individual freedom and safety. No one can be arrested except by virtue of a formally expressed order, issued by a functionary who the law gives the right to arrest and detain in a publicly designated place.

Art 13 — Property is sacred and inviolable. Every person, either by himself or his representatives, has the free disposal and administration of that which is recognized as belonging to him. Whoever infringes upon this right renders himself criminal towards society and responsible as concerns the person troubled in his property.

Title VI

On cultivation and commerce

Art 14 — The colony, being essentially agricultural, cannot allow the least interruption in its labor and cultivation.

Art 15 — Every habitation is a manufactory that demands a gathering together of cultivators and workers; it's the tranquil asylum of an active and constant family, of which the owner of the land or his representative is necessarily the father.

Art 16 — Every cultivator and worker is a member of the family and a shareholder in its revenues.

Any change in domicile on the part of cultivators brings with it the ruin of farming.

In order to do away with a vice so disastrous for the colony and contrary to public order, the governor makes all the police regulations that the circumstances render necessary in conformity with the bases of the police regulation of 20 Vendémiaire of the year 9, and the proclamation of General-in-Chief Toussaint Louverture of the following 19 Pluviose.

Art 17 — The introduction of the cultivators indispensable to the re-establishment and the growth of planting will take place in Saint-Domingue. The Constitution charges the governor to take the appropriate measures to encourage and favor this increase in arms, stipulate and balance the diverse interests, and assure and guarantee the carrying out of the respective engagements resulting from this introduction.

Art 18 — The commerce of the colony consists only in the exchange of the goods and products of its territory; consequently the introduction of those of the same nature as its own is and remains prohibited.

Title VII

On legislation and legislative authority

Art 19 — The regime of the colony is determined by the laws proposed by the governor and rendered by an assembly of inhabitants who gather at fixed periods in the center of the colony under the title of Central Assembly of Saint-Domingue.

Art 20 — No law relative to the internal administration of the colony can be promulgated unless it bears the following formula: the Central Assembly of Saint-Domingue, on the proposition of the Governor, renders the following law.

Art 21 — Laws will only be obligatory for citizens from the day of their promulgation in the departmental capitals. The promulgation of a law occurs in the following fashion: in the name of the French colony of Saint-Domingue, the governor orders that the above law be sealed, promulgated, and executed in the whole colony.

Art 22 — The Central Assembly of Saint-Domingue is composed of two deputies per department who, in order to be eligible, must be at least 30 years old and have resided in the colony five years.

Art 23 — The Assembly is renewed every two years by half; no one can be a member six consecutive years. The election takes place thusly: the municipal administrations every two years name on 10 Ventose (March 1), each one with one deputy, who will

meet ten days later in the capitals of their respective departments where they form as many departmental electoral assemblies, who will each name a deputy to the Central Assembly. The next election will take place the 10 Ventose of the eleventh year of the French republic (March 1, 1803). In case of death, resignation or otherwise of one or several members of the Assembly, the Governor will see to their replacement. He also designates the members of the current Central Assembly who, at the period of the first renewal, shall remain members of the Assembly for two more years.

Art 24 — The Central Assembly votes on the adoption or rejection of laws proposed to it by the Governor. It expresses its wishes on the regulations made and on the application of laws already made, on the abuses to be corrected, on the improvements to be undertaken, on all parts of service of the colony.

Art 25 — Its session begins every year the first of Germinal (March 22) and cannot exceed a duration of three months. The governor can convoke it extraordinarily. The sessions are not public.

Art 26 — If need be, the Central Assembly determines the basis, the amount, the duration and the mode of collection of taxes based on the state of the receipts and expenses presented to it, and on their increase or decrease. These states will be summarily published.

Title VIII

On Government

Art 27 — The administrative reins of the colony are confided to a Governor, who directly corresponds with the government of the metropole in all matters relating to the colony

Art 28 — The Constitution names as governor Citizen Toussaint Louverture, General-in-Chief of the army of Saint-Domingue and, in consideration of the important services that the general has rendered to the colony in the most critical circumstances of the revolution, and per the wishes of the grateful inhabitants, the reins are confided to him for the rest of his glorious life.

Art 29 — In the future each governor will be named for five years, and can be continued every five years for reason of good administration.

Art 30 — In order to consolidate the tranquility that the colony owes to the firmness, the activity, the indefatigable zeal, and the rare virtues of General Toussaint Louverture, and as a sign of the unlimited confidence of the inhabitants of Saint-Domingue, the Constitution attributes exclusively to this general the right to choose the citizen who, in the unhappy instance of his death, shall immediately replace him. This choice shall be secret. It will be consigned in a sealed packet that can only be opened by the Central Assembly in the presence of all the generals of the army of Saint-Domingue in active service and the commanders-in-chief of the departments.

General Toussaint Louverture will take all the precautionary measures necessary to make known to the Central Assembly the place this important packet has been deposited.

Art 31 — The citizen who will have been chosen by General Toussaint Louverture to take the reins of government upon his death, will take a vow to the Central Assembly to execute the Constitution of Saint-Domingue and to remain attached to the French government, and will be immediately installed in his functions, all of this in the presence of the army generals in active service and the commanders-in-chief of the departments who will all, individually and without cease will pledge to the new governor the vow of obedience to his orders.

Art 32 — No more than one month before the expiration of the five years set for the administration of each sitting governor, he will convoke the Central Assembly, the meeting of army generals in active service and the commanders-in-chief of the departments at the ordinary place of the meetings of the Central Assembly in order to name, along with the members of that Assembly, the new governor, or to maintain the sitting one in office.

Art 33 — Any failure in convocation on the part of the sitting governor is a manifest infraction of the constitution. In this case the highest ranking general, or the one with the most seniority of the same rank, who is on active duty in the colony shall take, by right and provisionally, the reins of government. This general will immediately convoke the other active duty generals, the commanders-in-chief of the departments and the members of the Central Assembly, all of who must obey the convocation in order to proceed with the nomination of a new governor.

In case of death, resignation or otherwise of a governor before the expiration of his functions, the government in the same way passes into the hands of the highest ranking general or the one with the most seniority of the same rank, who will convoke to

the same ends as above the members of the Central Assembly, the generals in active service and the commanders-in-chief of departments.

Art 34 — The Governor seals and promulgates the laws; he names to all civil and military posts. He commands in chief the armed forces and is charged with its organization, the ships of State docked in the ports of the colony receive his orders. He determines the division of the territory in the manner most in conformity with internal relations. According to the law, he watches over and provides for the internal and external security of the colony, and given that the state of war is a state of abandonment, malaise and nullity for the colony, the governor is charged in that circumstance to take the measures necessary to assure the colony subsistence and provisioning of all kinds.

Art 35 — He influences the general policies of the inhabitants and manufactories, and ensures that owners, farmers and their representatives observe their obligations towards the cultivators and workers, and the obligations of cultivators and workers towards the owners, farmers and their representatives.

Art 36 — He proposes to the Central Assembly the propositions of law as well as those changes in the Constitution that experience can render necessary.

Art 37 — He directs the collection, the payment and the use of the finances of the colony and, to this effect, gives all orders.

Art 38 — Every two years he presents at the Central Assembly the state of the receipts and expenses of each department, year by year.

Art 39 — He oversees and censors, via commissioners, every writing meant for publication on the island. He suppresses all those coming from foreign countries that will tend to corrupt the morals or again trouble the colony. He punishes the authors or sellers, according to the seriousness of the case.

Art 40 — If the Governor is informed that there is in the works some conspiracy against the tranquility of the colony, he has immediately arrested the persons presumed to be its authors, executors or accomplices. After having had them submit to an extra-judiciary interrogation if it is called for he has them brought before a competent tribunal.

Art 41 — The salary of the Governor is fixed at present at three hundred thousand francs. His guard of honor is paid for by the colony.

Title IX

On tribunals

Art 42 — The right of citizens to be amicably judged by arbitrators of their choice cannot be infringed.

Art 43 — No authority can suspend or hinder the execution of decisions rendered by the tribunals.

Art 44 — Justice is administered in the colony by *tribunaux de première instance* and appeal tribunals. The law determines the organization of the one and the other, their number, their competency, and the territory forming the field of each. These tribunals, according to their degree of jurisdiction, handle all civil and criminal affairs.

Art 45 — The colony has a *tribunal de cassation*, which pronounces on all requests for appeals against the decisions rendered by appeals courts, and complaints against an entire tribunal. This tribunal has no knowledge of the essence of affairs, but it reverses decisions rendered on procedures in which form was violated, or that contain some kind of evident contravention of the law, and sends the essence of the trial to the tribunal that must deal with it.

Art 46 — The judges of these diverse tribunals preserve their functions all their lives, unless condemned for heinous crimes. The government commissioners can be revoked.

Art 47 — Crimes by those in the military are subject to special tribunals and particular forms of judgement. These tribunals also know all kinds of theft, the violation of asylum, assassinations, murders, arson, rape, conspiracy and revolt. Their organization belongs to the governor of the colony.

Title X

On municipal administration

Art 48 — There is a municipal administration in every parish of the colony; in that in which is placed a *tribunal de première instance* the municipal administration is composed of a mayor and four administrators. The government commissioner attached to the tribunal fulfills the functions of commissioner attached to the municipal administration without pay. In the other parishes the municipal administrations are composed of a mayor and two administrators, and the functions of commissioner attached to them are filled without pay by substitute commissioners attached to the tribunal that are responsible for these parishes.

Art 49 — The members of municipal administrations are named for two years, but they can be continued in office. Their nomination falls upon the government that, from a list of at least sixteen persons presented to it by each municipal administration, chooses those persons most apt to guide the affairs of each parish.

Art 50 — The functions of the municipal administrations consist in the simple exercise of policing cities and towns, in the administration of funds, assuring the revenues of manufactured goods and the additional impositions of the parishes. In addition, they are especially charged with the keeping of registers of births, marriages and deaths.

Art 51 — Mayors exercise particular functions determined by the law.

Art XI

On the armed force

Art 52 — The armed force is essentially obedient; it can never deliberate. It is at the disposition of the Governor, who can only set it in motion for the maintenance of public order, the protection due to all citizens, and the defense of the colony.

Art 53 — It is divided into paid colonial guard and unpaid colonial guard.

Art 54 — The unpaid colonial guard does not leave the limits of its parish except in cases of imminent danger, and under orders from, and under the personal responsibility of, the military commander or his place. Outside the limits of its parish it becomes paid and is subject in this case to military discipline; in any other it is subject only to the law.

Art 55 — The colonial gendarmerie is part of the armed force. It is divided into horseback and foot gendarmerie. The horseback gendarmerie is instituted for high police matters and the safety of the countryside. It is paid for from the colonial treasury. The foot gendarmerie is instituted for the police functions in cities and towns. It is paid for by the cities and towns where it accomplishes its service.

Art 56 — The army recruits upon the proposal made by the Governor to the Central Assembly, and following the mode established by law.

Title XII

On finances and goods from seized and vacant domains

Art 57 — The finances of the colony are composed of:

- Rights on imported goods, weights and measures.
- Rights on the rental value of houses in cities and towns, of those that produce manufactured goods other than those of cultivation, and salt
- Revenue from ferries and post
- Fines, confiscations, wrecks
- Rights from the saving of shipwrecked ships
- Revenue from colonial domains

Art 58 — The product of the *fermage* ^{[11](#)} of goods seized from absentee owners without representatives are provisionally part of the public revenue of the colony, and are applied to administrative expenses. Circumstances will determine the laws that can be made relative to the overdue public debt and the *fermage* of goods seized by the administration at a period prior to the promulgation of the current Constitution, and towards those that will have been collected in a later time; they can be demanded and reimbursed in the year following the lifting of the seizure of the good.

Art 59 — The funds coming from the sale of movable goods and the price of vacant successions, open in the colony under the French government since 1789, will be deposited in a special cashbox and will only be available, along with the real estate combined in colonial domains, two years after the publication on the island of peace between France and the maritime powers.

Of course, this time span is only relative to those successions whose delay of five years — fixed by the edict of 1781- will have expired; and as relates to those opened at eras closer to peace, they can only be available and combined at the expiration of seven years.

Art 60 — Foreigners inheriting in France from their foreign or French relatives will also inherit in Saint-Domingue. They can contract, acquire, and receive goods situated in the colony and can dispose of them just like Frenchmen by all the means authorized by the law.

Art 61 — The mode of collection and administration of goods from seized and vacant domains will be determined by law.

Art 62 — A temporary accounting commission regulates and verifies the accounting of receipts and expenses of the colony. This commission is composed of three members, chosen and named by the governor.

Title XIII

General dispositions

Art 63 — Every person's home is an inviolable asylum. During the night, no one has the right to enter there except in case of fire, flood or appeal from within. During the day it can be entered for a specially determined objective, or by a law or an order emanating from a public authority.

Art 64 — In order for an act ordering the arrest of a person to be executed it is necessary that it:

Formally express the motive for the arrest and the law in execution of which it is ordered;

Emanate from a functionary who the law had formally given the power to do so;

The person arrested be given a copy of the order.

Art 65 — All those who, not having been given by the law the power to arrest, will give, sign, execute, or have executed the arrest of a person will be guilty of the crime of arbitrary detention.

Art 66 — All persons have the right to address individual petitions to any constituted authority, and especially to the governor.

Art 67 — No corporation or association contrary to public order can be formed in the colony.

No assembly of citizens can qualify itself as popular society. Any seditious gathering shall be immediately broken up at first by verbal order and, if necessary, by the development of armed force.

Art 68 — Every person has the right to form private establishments for the education and instruction of youth, with the authorization and under the surveillance of municipal administrations.

Art 69 — The law particularly watches over those professions that deal with public morality, the safety, the health and the fortunes of citizens.

Art 70 — The law provides for the recompense of inventors of rural machinery, or the maintenance of the exclusive property in their discoveries.

Art 71 — In the entire colony there is a uniformity in weights and measures.

Art 72 — The governor will distribute, in the name of the colony, recompense to warriors who have rendered striking service in fighting for the common defense.

Art 73 — Absent owners, for whatever cause, preserve their rights over the goods belonging to them situated in the colony. In order to have the seizure lifted, it will suffice for them to present their titles of ownership or, lacking titles, supplicative acts whose formula the law determines. Nevertheless, those inscribed and maintained on the general list of émigrés from France are excepted from this disposition. In this case their goods will continue to be administered as colonial domains until they have been taken from the lists.

Art 74 — As a guarantee of the public law, the colony proclaims that all the leases legally affirmed by the administration will have their full effect, if the adjudicators don't prefer to compromise with the owners or their representatives who will have obtained the lifting of the seizure.

Art 75 — It proclaims that it is upon the respect of persons and property that the cultivation of land, all production, and all means of labor and all social order rests.

Art 76 — It proclaims that every citizen owes his services to the land that nourishes him and that saw him born; to the maintenance of liberty equality and property every time the law calls him to defend them.

Art 77 — The General-in-Chief Toussaint Louverture is and remains charged with sending the present Constitution for the approval of the French government. Nevertheless, and given the absence of laws, the urgency of escaping from this state of peril, the necessity of promptly re-establishing culture and the well expressed unanimous wish of the inhabitants of Saint-Domingue, the General-in-Chief is and remains invited, in the name of public good, to put it into effect in the entire expanse of the territory of the colony.

“Done at Port-Républicain, 19 Floreal year 9 of the one and indivisible French Republic.”

Signed:

Borgella (president)

Raimond, Collet, Gaston Nogérie Lacour, Roxas, Mugnos, Mancebo, E Viart (Secretary).

“After having learned of the Constitution I give it my approbation. The invitation of the Central Assembly is an order for me. Consequently, I will have it passed on to the French government for its aproval. As for as its execution in the colony, the wish expressed by the CentralAssembly will be equally fulfilled and executed.”

“Given at Cap-Francais, 14 Messidor, year 9 of the one and indivisible French Republic.

General-in Chief: Toussaint Louverture

1. Price agreed upon for the lease of a farm.